

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Jack Wallace,) C/A No. 6:09-2442-RBH-WMC
vs.)
Plaintiff,)
vs.)
Simon Major, Director Sumter-Lee Regional Center,)
in his individual or personal capacity; and)
Capt. Ray Lee, Records Officer and Accountant, in)
his individual or personal capacity,)
Defendants.)

ORDER

This is a civil action filed by a prisoner confined at a local detention center. Therefore, in the event that a limitations issue arises, the plaintiff shall have the benefit of the holding in *Houston v. Lack*, 487 U.S. 266 (1988) (prisoner's pleading was filed at the moment of delivery to prison authorities for forwarding to District Court).

The above-captioned case is one of twelve, so to speak, "spinoff" cases from a civil action originally filed by thirteen prisoners at the Sumter-Lee Regional Detention Center. See original complaint in *Charles Gary Brown, et al. v. Simon Major, et al.*, Civil Action No. 6:09-2329-RBH-WMC. In an order filed in Civil Action No. 6:09-2329-RBH-WMC on September 16, 2009, the Honorable William M. Catoe, United States Magistrate Judge, directed the Clerk of Court to assign separate civil action numbers to each of the twelve co-plaintiffs. This is the resulting civil action to address the claims of Jack Wallace.

In an order filed in this case on September 24, 2009, Magistrate Judge Catoe directed the plaintiff to bring this case into "proper form" by submitting Forms USM-285, an amended complaint, a motion to proceed *in forma pauperis*, and a summons. The plaintiff submitted a summons and one Form USM-285 (for Captain Lee). Hence, in an order filed in this case on October 26, 2009, Magistrate Judge Catoe gave the plaintiff an extension of fifteen (15) days to submit an amended complaint, a motion to proceed *in forma pauperis* (Form AO 240), and a Form USM-285 for Simon Major.

This matter is before the court because of the plaintiff's failure to comply with the magistrate judge's second "proper form" order (Entry No. 12) of October 26, 2009. A review of the record indicates that the magistrate judge ordered the plaintiff to submit the

items (an amended complaint, a motion to proceed *in forma pauperis*, and a Form USM-285) needed to render this case into “proper form” within the extended time of fifteen days, and that if he failed to do so, this case would be dismissed *without prejudice*. The plaintiff has failed to respond to the magistrate judge’s order.

Accordingly, the above-captioned case is dismissed *without prejudice*. The Clerk of Court shall close the file.*

IT IS SO ORDERED.

November _24, 2009
Florence, South Carolina

s/R. Bryan Harwell

R. Bryan Harwell
United States District Judge

*Under the General Order (Misc. No. 3:07-MC-5014-JFA) filed on September 18, 2007, this dismissal *without prejudice* does *not* count as a “strike” for purposes of the “three strikes” provision of 28 U.S.C. § 1915(g). If the plaintiff wishes to bring this action in the future, he should obtain new forms for doing so from the Clerk’s Office in Columbia (901 Richland Street, Columbia, South Carolina 29201).